

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KATHLEEN E. POPE, et al.,

Plaintiffs,

Case No. C21-1079-JCC-SKV

V.

SPOKANE SCHOOL DISTRICT NO. 81,
et al.,

Defendants.

**ORDER RE: MOTION TO EXTEND
NOTING DATE**

Plaintiffs filed a Motion to Extend Noting Date for Defendant Bellevue School District's Summary Judgment Motion. Dkts. 78-79. BSD filed an opposition to Plaintiffs' motion.

1. The Court, having now considered the briefing, all documents filed in support and
tion, and the remainder of the record, herein finds and ORDERS as follows:

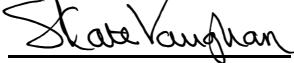
(1) Plaintiffs seek, pursuant to Federal Rule of Civil Procedure 56(d) and Local Civil Rule 7(j), an extension of the noting date for BSD’s pending summary judgment motion, *see* Dkt. 76. They request that the dispositive motion’s August 5, 2022 noting date be extended to at least October 7, 2022 to allow for Plaintiffs to obtain responses to outstanding discovery requests propounded prior to the filing of BSD’s motion. In opposing this request, BSD states that its summary judgment motion presents a narrow legal issue, namely, whether Plaintiffs failed to exhaust their administrative remedies. BSD asserts that Plaintiffs fail to show how further

1 discovery would elicit evidence pertinent to that question and that the documents discussed in
2 Plaintiffs' motion for an extension and supportive declaration, *see* Dkt. 79, are immaterial to the
3 issue of administrative exhaustion. Plaintiffs, in reply, note that BSD's motion goes beyond the
4 issue of exhaustion and also seeks dismissal on the merits, thereby necessitating the further
5 discovery sought. Plaintiffs argue that, because BSD opposes the extension *only* in relation to
6 exhaustion and does not address discovery on the merits, the extension should be granted with
7 respect to arguments seeking dismissal of Plaintiffs' claims on the merits.

8 Plaintiffs' motion for an extension, Dkts. 78-79, is GRANTED in part and DENIED in
9 part. The motion is DENIED to the extent it seeks an extension in relation to the portion of the
10 summary judgment motion devoted to the issue of exhaustion of administrative remedies.
11 Plaintiffs do not meet their burden to show that discovery is warranted because Plaintiffs "cannot
12 present facts essential to justify its opposition[.]" Fed. R. Civ. P. 56(d)(2). However,
13 considering the arguments raised by Plaintiffs and the absence of a specific argument in
14 opposition, the motion for an extension is GRANTED in relation to the portion of the summary
15 judgment motion devoted to the merits of Plaintiffs' claims. The Court will defer consideration
16 of that portion of BSD's motion. Should Plaintiffs prevail on the issue of exhaustion, the Court
17 will re-note the summary judgment motion on the merits and, as may be needed as a result of the
18 discovery process, provide for supplemental briefing.

19 (2) The Clerk is directed to send copies of this Order to the parties and to the
20 Honorable John C. Coughenour.

21 Dated this 15th day of August, 2022.

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S. KATE VAUGHAN
United States Magistrate Judge